THIS AGREEMENT is made and entered into as of the ______ Day of ____________,
20______, by and between ______________________________________________________
a [for profit corporation] incorporated under the laws of the State of ______________________
(hereinafter called “Sponsor”), and the University Maine System, acting through its University of
Southern Maine, an agency and instrumentality of the State of Maine (hereinafter called “USM”).

WHEREAS, the research program contemplated by the Agreement is of mutual interest and
benefit to USM and to Sponsor, and will further USM’s educational and research objectives;

WHEREAS, both Parties believe and represent that the research program is funded entirely by
Sponsor, without funding contributions from other sponsors or from USM, and that the research
does not involve encryption or classified technology;

NOW, THEREFORE, the parties hereto agree as follows:

1. STATEMENT OF WORK: USM shall use reasonable efforts to conduct the research
program described in Exhibit A (the “Project”), and do so within the Total Project Cost as
specified in Section 4.1. Notwithstanding, USM may exercise its discretion and independent
judgment as to the method and means of performing the Project. The schedule for delivery of all
reports and deliverables is as set forth in the Statement of Work, Exhibit A.

2. PARTY REPRESENTATIVES:

2.1. USM’s Principal Investigator for the Project shall be _______________________________.
USM shall give Sponsor written notice of any change in its Principal Investigator. The Principal
Investigator is responsible for performing the Project on behalf of USM.

2.2. USM’s Contracting Officer is _________________________________. USM shall
give Sponsor written notice of any change in its Contracting Officer. The Contracting Officer is
responsible for interpretation, negotiation, extensions, amendments, or modifications of this
Agreement.

2.3. Sponsor’s Project Director is _________________________________. Sponsor
shall give USM written notice of any change in its Project Director. The Project Director shall
be responsible for interpretation, negotiation, extensions, amendments, or modifications of this
Agreement.
3. PERIOD OF PERFORMANCE: The Period of Performance under this Agreement is from _____________________ through _____________________, unless sooner terminated in accordance with this Agreement.

4. COMPENSATION:

4.1. The Total Project Cost shall be ________________________________.

4.2. Sponsor shall pay USM according to the schedule below. Payment shall be sent to USM Office of Sponsored Programs, 15 Baxter Blvd., Portland, ME 04104-9300. All checks shall reference the Research Agreement Number as listed on the first page of this Agreement.

☐ REIMBURSEMENT OF COSTS: Sponsor shall reimburse USM for all direct and indirect costs incurred in the performance of the Project. Indirect costs shall be calculated at ____ percent (____%) of total direct costs. Upon execution of this Agreement, Sponsor shall pay to USM an amount equal to the Total Project Cost. USM shall set aside this amount for allocation to USM’s restricted accounts assigned for the Project. All amounts neither expended nor committed after this Agreement has ended shall be refunded to Sponsor.

☐ FIXED-FEE: Sponsor shall pay USM the Total Project Cost for USM’s services hereunder. Sponsor shall remit ____ percent (____%) of the Total Project Cost upon execution by both parties of this Agreement. The remaining amount due under this Agreement shall be payable in equal quarterly installments for the Period of Performance of this Agreement, and paid upon receipt of invoices from USM issued quarterly. Invoices are due and payable within thirty (30) days. Any amendment changing either the Period of Performance or the Total Project Cost shall specify a new payment schedule.

5. TERMINATION:

5.1. Either party may at any time terminate this Agreement by giving the other party not less than sixty (60) days prior written notice, provided, however, that USM may terminate this Agreement upon ten (10) days’ notice if any payment due from Sponsor is not received before or upon the date due or within the ten (10) day notice period.

5.2. If so terminated, Sponsor shall remain responsible for payment to USM for all work performed through the date of termination and for reimbursement to USM of all non-cancellable commitments incurred for the Project.

6. PUBLICATIONS:

6.1. Sponsor recognizes that the University's mission is to publish and disseminate research results developed under sponsored research projects. Either Party’s proposed publications related to the Project, whether intended to be in writing or by oral presentation, shall be submitted by the publishing party to the other party ("Reviewing Party") at least ninety (90) days prior to submission to third parties. The Reviewing Party shall determine whether any of its Proprietary Information, including trade secrets, is included in the proposed publication. The
Reviewing Party may reasonably require that its trade secrets be removed from the proposed publication and that publication be delayed to permit the filing of patent applications to protect any other such Proprietary Information. The Reviewing Party shall make such determination within forty-five (45) days of receipt of the proposed publication. However, in no event shall publication be delayed more than ninety (90) days after receipt of the proposed publication by the Reviewing Party.

6.2. The Parties shall each have the final authority to determine the scope and content of any publications or presentations made by their respective employees in accordance with the limitations of this section.

7. INTELLECTUAL PROPERTY:

7.1. “Invention” shall mean any discovery, concept or idea, whether or not patentable, conceived or first reduced to practice in whole or in part in performance of this Agreement.

7.2. Title to any Inventions is hereby vested and shall vest in USM.

7.3. USM will retain ownership of the data arising out of the Project that USM generates. Subject to other provisions of this Agreement, including those pertaining to proprietary information and intellectual property, Sponsor will have access to the data and may freely use such data in connection with any of its internal research.

7.4. Each Party shall retain ownership of property that is developed solely by that Party’s employees, including, but is not limited to, prototypes, biogenic materials, samples, lab notebooks, graphs, maps, drawings, and documents created under this Agreement (collectively, “Tangible Research Property”). Similarly, any improvements of methodology, discoveries, inventions, copyrightable work, equipment, or processes developed jointly by USM and Sponsor during the term of this Agreement shall be jointly owned. Moreover, USM shall retain the right to use and distribute copies of all deliverables for educational and/or research purposes.

7.5. Each Party by its own policy requires the reporting of Inventions by its employees and shall notify the other Party of any Invention disclosed to it within thirty (30) days of its receipt of such disclosure. Inventions disclosed to USM by its own employees shall be considered Proprietary Information of USM.

7.6. As between USM and Sponsor, USM shall own all right, title and interest in and to any and all copyrights and copyrightable materials, including data, created in performance of this Agreement (collectively "Copyrights"). USM shall have the sole right to determine the disposition of Copyrights, provided that Sponsor shall have option rights, in accordance with Section 7.7, in computer software and databases developed and delivered under the Statement of Work.

7.7. USM hereby grants Sponsor an option, for a period of six (6) months from date Sponsor receives written notification from USM of an Invention or Copyright, to negotiate in good faith a royalty-bearing license to such Invention or Copyright as provided in Section 7.6. However,
neither Party shall, by virtue of this Agreement, acquire rights to inventions, copyrights, technical information, or tangible property concurrently created or acquired outside of this Agreement or that are owned by the other Party prior to entering into this Agreement, including any background technology required to practice Inventions. Such rights may or may not be available for licensing.

7.8. Any license to Sponsor as provided above will be granted by a separate license agreement signed by the parties which shall include at least the following terms and conditions: (a) an appropriate field of use; (b) mutually agreeable license fees and royalties; (c) mutually agreeable minimum royalties and/or other requirements of due diligence to develop and commercialize the Invention; (d) reimbursement of USM’s cost of patent filing, prosecution and maintenance; and (e) retention by USM of a royalty-free right to use the Invention for teaching, research, or other educational or academic purposes. If federal funding is used in part to develop intellectual property of the license, the license shall also be subject to all other terms required by the applicable federal contracts and statutes.

8. PROPRIETARY INFORMATION:

8.1. In performance of this Agreement it is likely that the Parties will disclose to each other, either in writing or orally, information which the disclosing Party deems to be proprietary and confidential (hereinafter, "Proprietary Information"). Proprietary Information disclosed orally shall be reduced to writing within thirty (30) days of oral disclosure. All Proprietary Information shall be marked "Confidential". Notwithstanding the above, all oral and written progress reports from USM to Sponsor, including all reports required under the Statement of Work, whether or not marked or reduced to writing, shall also be deemed to be Proprietary Information of USM. Proprietary Information shall be maintained in confidence by the receiving party for a period of three (3) years following the termination of this Agreement. Receiving Party shall use Proprietary Information solely for the purposes of this Agreement. Each Party shall protect the other Party’s Proprietary Information from disclosure using at least the same degree of care as it uses to protect its own proprietary information. The disclosure of Proprietary Information shall not of itself be construed as a grant of any right or license with respect to the information.

8.2. Proprietary Information does not include information which receiving Party can demonstrate and document: (a) was in its knowledge or possession prior to receipt from disclosing Party; (b) was public knowledge or becomes public knowledge through no fault of receiving Party; (c) is or has been properly provided to receiving Party by an independent third party who has no obligation of confidentiality to disclosing Party; or (d) is thereafter independently developed by receiving Party's employees without reference to the information from disclosing Party.

9. EQUIPMENT: Title to all equipment acquired or built by USM with funds under this Agreement is hereby vested and shall vest in USM.

10. USM MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE WORK OR PRODUCTS OF WORK CREATED UNDER THIS AGREEMENT, INCLUDING THE
OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT. Further, USM shall not be liable for an amount greater than the total amounts to be paid as consideration for the services rendered by it under this Agreement. In any event, the liability of USM hereunder shall be subject in all cases to the immunities and limitations of the Maine Tort Claims Act (14 M.R.S.A. '8101, et seq.), as amended.

11. LIABILITY: Neither Party shall be liable for incidental, consequential, or special damages for breach, nor shall either party be liable for breach for money damages in an amount greater than the total amount of money to be paid by Sponsor for the services rendered under this Agreement.

12. INDEMNIFICATION: Sponsor shall indemnify, defend, and hold USM harmless from any loss, claim, damage, or liability of any kind arising out of Sponsor’s use of work product created under the Project or in connection with this Agreement.

13. ASSIGNMENT: Neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by USM or Sponsor without the prior written consent of the other. Notwithstanding the foregoing, USM may assign any Inventions created under this Agreement.

14. WAIVER: The waiver by either party of a breach of any provision of this Agreement shall not operate as or be considered a waiver by that party of any subsequent breaches.

15. REQUIRED NOTICES: Any notice required to be given under this Agreement, and an invoice, payment, or communication associated with the performance of the Agreement, shall be deemed made if given by registered or certified mail, postage prepaid, and addressed either to the address given below or to such other address as may hereafter be specified in writing by the parties:

If to Sponsor:
______________________________________

If to USM:
______________________________________

16. GOVERNING LAW: This Agreement shall be construed in accordance with the laws of the State of Maine as they pertain to agreements executed and fully to be performed within Maine, or federal law where applicable, but in either case excluding that body of law relating to choice of law.

17. CONSENT TO SERVICE OF PROCESS AND JURISDICTION: Each party hereby irrevocably submits itself to the personal jurisdiction of the Courts of the State of Maine, Cumberland County and the personal jurisdiction of the United States District Court for the District of Maine for the purpose of any suit, action or other proceedings arising out of or based
upon this Agreement or the subject matter thereof. Each party agrees that it shall bring any such proceeding only in such courts.

18. ENTIRE AGREEMENT: This Agreement with its incorporated exhibits, if any, constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, commitments, offers, contracts and writings. Any amendments or further addenda hereafter made shall be in writing and executed with the same formality.

19. INDEPENDENT STATUS. USM is an independent contractor of the Sponsor, not a partner, agent or joint venturer of the Sponsor and neither party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either party be bound by any representation, act or omission whatsoever of the other.

20. FORCE MAJEURE. Neither party to this Agreement shall be liable for non-performance of any obligation under this Agreement if such non-performance is caused by a Force Majeure. "Force Majeure" means an unforeseeable cause beyond the control of and without the negligence of the party claiming Force Majeure, including, but not limited to, fire, flood, other severe weather, acts of God, labor strikes, interruption of utility services, war, acts of terrorism, and other unforeseeable accidents.

21. BINDING EFFECT. This Agreement shall be binding upon, and shall extend to the benefit of, the parties hereto and their respective permitted successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective duly authorized officers the day and year first above written.

UNIVERSITY OF MAINE SYSTEM  
D/B/A UNIVERSITY OF SOUTHERN MAINE  
[Name of Company]

By:____________________________  By:______________________________
Name: _________________________  Name: ___________________________
Title:__________________________  Title: ____________________________
Date:__________________________  Date: ____________________________
APPENDIX A

STATEMENT OF WORK

SUMMARY

Provide a short statement that includes the purpose of the research, expected results, and future work.

This includes:

(1) BACKGROUND: Project background information (no citations required)

(2) PROJECT: This includes objectives, methods, outcomes and/or deliverables

(3) PREPARENESS: Please include faculty members’ background and expertise

(4) OPPORTUNITY: Does this relationship build off existing and/or previous work by the University or Sponsor?

(5) PROJECT MILESTONES AND TIME TABLE: List of specific milestones (numbered) and expected timeline.

(6) BUDGET: Budget needs to be constructed and approved by the Office of Sponsored Programs. Indirect costs are negotiable.